

REMARKS

Applicants submit, contemporaneously herewith, a Request for Continued Examination pursuant to 37 C.F.R. § 1.114.

Claims 35-54, 56-62, and 67-71 are pending. Claims 1-34, 39, 43, 51, 55, and 63-66 have been cancelled.

Claim Rejections - 35 U.S.C. §102(b)

Claims 35-38, 40-42, 44-50, 52-54, 56, 57, 59, and 60 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,665,089 to Dall ("Dall '089").

Dall '089 discloses the use of ladder plate 81, as shown in Fig. 8, in combination with ladder plate 82 for bracing complex fracture 83 with butterfly fragment 84. The end openings of ladder plate 81 contains single-screw fixation means 38, which are screwed to bone. Additionally, as described with reference to Fig. 2, a ladder plate, such as ladder plate 36, may be mounted to bone 30 and secured by cerclage cables 64 passing through holes 48. Each loop of cable 64 is pulled tight and locked in place by crimping respective bridges 42, as shown in Fig. 3.

Applicants respectfully submit that amended independent Claims 35, 54, and 60 are not anticipated by Dall '089, as Dall '089 fails to disclose each and every limitation called for in amended independent Claims 35, 54, and 60. Specifically, each of amended independent Claims 35, 54, and 60 call for an implant for the treatment of bone fractures including, *inter alia*, a main plate adapted to be fixed to a bone and a plate-shaped outrigger element adapted to be fixed to a bone, the implant further comprising *a U-shape flexible connection element having a pair of U limbs extending outwardly from a U base, wherein the main plate has at least one pair of first passages and the outrigger element has at least one pair of second passages through which the U arms of the connection element are guidable, wherein, in the assembled state of the implant, the U base is adjacent the outrigger element and the U limbs of the connection element extend outwardly from the outrigger element.*

In forming the rejection, the Examiner relies on cerclage wire 64 of Dall '089 as forming the flexible connection element called for in the amended independent claims. However, as shown in the figures of Dall '089, cerclage wire 64 fails to define a U-shaped flexible connection element

having a pair of U limbs extending outwardly from a U base. Moreover, assuming, *arguendo*, that cerclage wire 64 could be formed to have a U-shape, Dall '089 fails to disclose or suggest a U-shaped flexible connection element having a pair of U limbs extending outwardly from a U base and a main plate having at least one pair of first passages and an outrigger element having at least one pair of second passages through which the U arms of the connection element are guidable, wherein, in the assembled state of the implant, the U base is adjacent the outrigger element and the U arms of the connection element extend outwardly from the outrigger element. Specifically, taking a portion of the cerclage wire 64 of Dall '089 as forming a U base, no where does Dall '089 disclose or suggest positioning a U base adjacent one of ladder plates 81, 82 with *both* of the pair of U limbs extending outwardly from the one of ladder plates 81, 82.

For at least the foregoing reasons, Applicants respectfully submit that amended independent Claims 35, 54, and 60, as well as Claims 35-38, 40-42, 44-50, 52, 53, 56, 57, and 59, which depend therefrom, are not anticipated by Dall '089.

Claims 69-71 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Application Publication No. 2002/0062127 to Schumacher et al ("Schumacher '127).

Schumacher '127 discloses implant system 10 including elongated reconstruction plate 14 having threaded aperture 16 adapted to receive fasteners 18 therein. Additionally, system 10 includes auxiliary reinforcement plate 64, shown in Fig. 1, including bone attachment portion 66 and plate attachment portion 68, shown in Fig. 7. Plate attachment portion 68 of auxiliary reinforcement plate 64 include apertures 80 which allow plate engaging portion 68 to be interconnected to plate 14 by positioning fastener 18 through aperture 80 of auxiliary plate 64 and aperture 16 of elongated reconstruction plate 14, as shown in Fig. 1.

Applicants respectfully submit that amended Claim 69 is not anticipated by Schumacher '127, as Schumacher '127 fails to disclose each and every limitation of amended independent Claim 69. Specifically, amended independent Claim 69 calls for an implant for the treatment of bone fractures including, *inter alia*, an implant comprising a main plate adapted to be fixed to a bone and having at least one pair of passages formed therein, a plate-shaped monolithic outrigger element adapted to be fixed to the bone, the monolithic outrigger element including a flexible connection having a pair of arms, wherein *the pair of arms of the flexible connection element is receivable in the*

at least one pair of passages of the main plate to connect the main plate and the outrigger element to treat a bone fracture.

In forming the rejection, the Examiner relies on portions 68, 70 as forming the flexible connection element called for in amended independent Claim 69. However, portions 68, 70 of auxiliary reinforcement plate 64 are not receivable in at least one pair of passages of elongate plate 14 to connect elongate plate 14 to auxiliary reinforcement plate 64. In contrast, amended independent Claim 69 calls for a pair of arms of a flexible connection element that are receivable in at least one pair of passages of the main plate to connect the main plate and the outrigger element to treat a bone fracture.

Thus, for at least the foregoing reasons, Applicants respectfully submit that amended independent Claim 69, as well as Claims 70 and 71 which depend therefrom, are not anticipated by Schumacher '127.

Claim Rejections - 35 U.S.C. §103(a)

Claims 58, 61, 62, and 67-71 are rejected under 35 U.S.C. § 103(a) as being obvious over Dall '089 in view of WO03/032849 to Tassin ("Tassin '849").

In forming the rejection of Claims 58, 61, 62, 67, and 68, the Examiner relies on Dall '089 as disclosing each and every limitation of amended independent Claim 1, from which Claims 58, 61, 62, 67, and 68 depend. However, for at least the reasons set forth above with respect to amended independent Claim 1, Dall '089 fails to disclose or suggest each and every limitation of amended independent Claim 1. The Examiner's additional citation of Tassin '849 fails to overcome this deficiency, as neither Dall '089 nor Tassin '849, either alone or in combination, disclose an implant for the treatment of bone fractures including, *inter alia*, a main plate adapted to be fixed to a bone and a plate-shaped outrigger element adapted to be fixed to a bone, the implant further comprising a U-shape flexible connection element having a pair of U limbs extending outwardly from a U base, wherein the main plate has at least one pair of first passages and the outrigger element has at least one pair of second passages through which the U arms of the connection element are guidable, wherein, in the assembled state of the implant, the U base is adjacent the outrigger element and the U

limbs of the connection element extend outwardly from the outrigger element, as called for in amended independent Claim 1.

Thus, for at least the foregoing reasons, Applicants respectfully submit that Claims 58, 61, 62, 67, and 68, which depend from amended Claim 1, are not obvious over Dall '089 in view of Tassin '849.

In forming the rejection of amended independent Claim 69, as well as Claims 70 and 71 which depend therefrom, the Examiner relies on Dall '089 as disclosing each and every limitation of amended independent Claim 69, except for the monolithic outrigger element including a flexible connection element. Thus, the Examiner relies on Dall '089 for disclosing a flexible connection element having a pair of arms. However, Dall '089 fails to disclose a flexible connection element having a pair of arms. In contrast, Dall '089 discloses a connection element in the form of cerclage wire 64, which lacks a pair of arms. The Examiner's additional citation of Tassin '849 fails to overcome this deficiency, as neither Dall '089 nor Tassin '849 disclose or suggest, either alone or in combination, disclose an implant for the treatment of bone fractures including, *inter alia*, an implant comprising a main plate adapted to be fixed to a bone and having at least one pair of passages formed therein, a plate-shaped monolithic outrigger element adapted to be fixed to the bone, the monolithic outrigger element including a flexible connection having a pair of arms, wherein the pair of arms of the flexible connection element is receivable in the at least one pair of passages of the main plate to connect the main plate and the outrigger element to treat a bone fracture, as called for in amended independent Claim 69.

Thus, for at least the foregoing reasons, Applicants respectfully submit that amended independent Claim 69, as well as Claims 60 and 70, which depend therefrom, are not obvious over Dall '089 in view of Tassin '849.

Conclusion

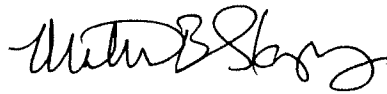
It is believed that the above represents a complete response to the Official Action and reconsideration is requested. Specifically, Applicants respectfully submit that the application is in condition for allowance and respectfully requests allowance thereof.

Application Serial No. 10/814,926
Amendment dated March 19, 2008
Reply to Office Action dated November 19, 2007

In the event Applicants have overlooked the need for an additional extension of time, payment of fee, or additional payment of fee, Applicants hereby petition therefor and authorize that any charges be made to Deposit Account No. 02-0385, Baker & Daniels.

Should the Examiner have any further questions regarding any of the foregoing, he is respectfully invited to telephone the undersigned at 260-424-8000.

Respectfully submitted,



Matthew B. Skaggs
Registration No. 55,814

Attorney for Applicants

MBS

BAKER & DANIELS LLP
111 East Wayne Street, Suite 800
Fort Wayne, IN 46802
Telephone: 260-424-8000
Facsimile: 260-460-1700

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March 19, 2008

Date